IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 14 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME TAX

Versus

ARVIND MILLS LTD.

Appearance:

1. INCOME TAX REFERENCE No. 14 of 1994
MR AKIL KURESHI with MR MANISH R BHATT for Petitioner
MR MANISH J SHAH for Respondent

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 08/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following questions have been referred by the Income-tax Appellate Tribunal, Ahmedabad for our opinion in respect of assessment year 1985-86 :-

"(1) Whether the Appellate Tribunal is right in law and on facts in deleting the addition of Rs.2,59,836/- for tebilised royalty ?"

(2) Whether the Appellate Tribunal is right in law and on facts in deleting addition of Rs.18,891/- made on account of Travelling Expenses ?"

(3) Whether the Appellate Tribunal is right in law and on facts in allowing the claims of the assessee for Rs.3,60,000/on account of provision on redemption of Debentures ?"

2. We have heard Mr Akil Kureshi, learned counsel for the revenue and Mr Manish J Shah, learned counsel for the respondent-assessee.

3. As far as question No. 1 is concerned, our attention is invited to the decision of this Court in CIT vs. Ashoka Mills Ltd., 218 ITR 526 wherein this Court held in a similar case that payment of royalty for "Tebilised" was revenue expenditure. Following the said decision, our answer to question No. 1 is in the affirmative i.e. in favour of the assessee and against the revenue.

4. As far as question No. 2 is concerned, the learned counsel for the parties point out that similar question has been decided in favour of the revenue in Income-tax Reference No.54 of 1988 decided on 6.2.2001. Following the said decision, our answer to question No. 2 is in the negative i.e. in favour of the revenue and against the assessee.

5. Coming to question No. 3, the learned counsel for the parties point out that in the case of Madras Industrial Investment Corporation Ltd. vs. CIT, 225 ITR 802, similar question has been decided by the Supreme Court in favour of the assessee. Following the said decision, our answer to question No. 3 is in the affirmative i.e. in favour of the assessee and against the revenue.

6. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-